

# Soldiers' & Sailors' Civil Relief Act



**A**S MORE military members are being deployed to trouble spots around the world or to fight the war on terrorism, there has been an increase in questions about the Soldiers' and Sailors' Civil Relief Act — especially from members of the reserve components and their families.

## The SSCRA

The Soldiers' and Sailors' Civil Relief Act became a federal law in 1940. Its purpose is to protect active-duty and reserve-component members of the armed services who may be disadvantaged in terms of their economic and property interests due to serving their country. The SSCRA permits service members to suspend or delay certain civil liabilities and civil-court actions.

The law does not exempt service members from legal obligations that result from an act of wrongdoing. The law does not cover criminal charges and citations that include misdemeanors such as reckless driving and driving while intoxicated. Requests to delay court dates for these obligations should be addressed to the court and prosecutors, who may elect to delay proceedings but are not required to do so under the SSCRA.

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## Are You Covered?

Members of the Army and Air National Guard, reserve forces and regular military on active federal service and some of their dependents are covered by the SSCRA. Soldiers who wish to read this lengthy law can find it on the Internet by searching for "Title 50, Appendix, United States Code, Sections 501-590."

The law covers a wide range of matters that concern almost every facet of civilian economic and judicial activity, and it requires a booklet to properly address. This article is limited to the five areas usually of the greatest interest to soldiers.

Most often, relief concerns the staying of judicial proceedings, exemption from multiple income taxation, reduction of interest rates, early termination of leases, stopping mortgage foreclosures and extending statutes of limitations.

## Stay of Civil Proceedings

Stays of civil proceedings are available when soldiers are sued and are not reasonably available to appear in court or able to achieve proper legal representation due to military service. Soldiers may ask the court to stay proceedings until they return from duty.

Based on my experience, a judge advocate attorney should not sign such a letter on behalf of a soldier, since some judges have denied the stay on the grounds that



the attorney made an appearance on behalf of the soldier, who is therefore represented. I recommend the attorney prepare a letter that the soldier's commander can sign requesting the stay. This avoids the appearance that the soldier has legal representation.

A judge also may grant a stay of enforcement of a legal obligation if the soldier's ability to meet the obligation has been materially affected by entry into military service.

## Exemption from Multiple Taxation

Multiple taxation is a common concern as soldiers PCS from state to state. Soldiers remain subject to the tax liabilities of their legal residence (home state). The SSCRA provides immunity from taxes by host states on income earned through military service. However, earned income from off-duty employment and that of the family members is taxable by the host state or the state in which the income is earned.

Some counties, as in Virginia, impose personal-property taxes on automobiles, mobile homes and recreational vehicles. Soldiers are exempt from these

taxes by host states and counties, providing the property is in the soldier's sole name or parked on an exclusive federal-jurisdiction installation. Where soldiers are exempt from personal-property taxes on their motor vehicles, a county may nevertheless require registration and display of a county sticker. Such stickers should be free of charge or cost a nominal fee (cost of the sticker) and not serve as a revenue-producing source.

## Reduction of Interest Rates

If debts such as a mortgage or credit-card debt were created prior to a soldier's entry on active duty and if entering military service "materially affects" the soldier's income so that the payments cannot be made, the soldier can request a reduction of up to 6 percent of the interest rate.

The soldier must make a written request, provide a copy of orders and cite the statutory provision. The burden of proof is on the creditor to prove the soldier was not materially affected.

The portion of reduced interest rate is forfeited by the creditor and may not be recouped in the future. Soldiers should not

reduce interest payments prior to giving proper written notification to the creditor. Do not make telephone requests, and keep copies of all correspondence.

Information on mortgage debt is available via the U.S. Department of Housing and Urban Development's toll-free number, (888) 297-8685, and on its Web site at [www.hud.gov](http://www.hud.gov).

## Early Termination of Leases



A soldier may seek an early termination of a lease if it was contracted prior to active duty. This includes residential and business leases. Termination of leases entered into after coming on active duty is generally governed by the terms of the lease contract or the landlord-tenant acts of each state. Soldiers must provide written notice to their landlords, with copies of the military orders.

## Mortgage Foreclosure Protection

Many service members have purchased homes or used real property to secure loans before they enlisted or came on active duty. Foreclosure protection applies when military service materially affects the service member's ability to make the loan payments. The relief may consist of staying the foreclosure proceedings or providing for a decrease in the payments during the period of service.

## Seek Legal Advice

When in doubt, CYA (consult your attorney), preferably from your military staff judge advocate, since their help is part of your benefits. Simply reading the SSCRA is not enough to determine rights, since the law's application depends on court interpretations and decisions.

And never depend on the advice of someone who is not an expert in the law.

